



PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

Tokunori KATO

Group Art Unit: 2614

Application No.: 10/634,828

Examiner: C. SMITH

Filed: August 6, 2003

Docket No.: 116781

For: INTERNET TELEPHONE SYSTEM

RESPONSE TO ELECTION OF SPECIES REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In reply to the March 22, 2007 Election of Species Requirement, the period for reply being extended by the attached Petition for Extension of Time, Applicant provisionally elects Group II, claims 5-13, with traverse.

The Office Action alleges that the claims are directed to species, Groups I-IX, which are defined by claims. According to MPEP §806.04(e), claims, themselves, are never species. Because Groups I-IX are defined by claims, election of species requirement is improper.

The Office Action also alleges the species are independent or distinct because each of Groups I-IX require different elements than the other groups of claims. However, it is respectfully submitted that none of the claims of the non-elected Groups I and III-IX specifically exclude any of the features of the elected Group II. Moreover, it is respectfully submitted that none of the independent claims specifically exclude any other independent claim. Thus, Groups I-IX are not mutually exclusive as required for restriction under MPEP §806.05(j).

It is also respectfully submitted that the subject matter of all claims is sufficiently related that a thorough search for the subject matter of any one Group of claims would encompass a search for the subject matter of the remaining claims. Thus, it is respectfully submitted that the search and examination of the entire application could be made without serious burden. See MPEP §803 in which it is stated that "if the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions" (emphasis added). It is respectfully submitted that this policy should apply in the present application in order to avoid unnecessary delay and expense to Applicants and duplicative examination by the Patent Office.

Thus, withdrawal of the Election of Species Requirement is respectfully requested.

Respectfully submitted,

James A. Oliff
Registration No. 27,075

Jesse O. Collier
Registration No. 53,839

JAO:LXF/tjx

Attachment:
Petition for Extension of Time

Date: May 22, 2007

OLIFF & BERRIDGE, PLC
P.O. Box 19928
Alexandria, Virginia 22320
Telephone: (703) 836-6400

<p>DEPOSIT ACCOUNT USE AUTHORIZATION Please grant any extension necessary for entry; Charge any fee due to our Deposit Account No. 15-0461</p>
--